



## Board of Adjustment Case Report

City of Raleigh  
Department of City Planning  
One Exchange Plaza  
Raleigh, NC 27601  
(919) 996-2626  
[www.raleighnc.gov](http://www.raleighnc.gov)

**Case File:** A-108-17

**Property Address:** 11370 Common Oaks Drive

**Property Owner:** Fifth Third Bank

**Project Contact:** Jason Henderson

**Nature of Case:** A request for a variance to Section 9.1.9.A. of the Unified Development Ordinance to reduce the forestation requirement area for the Urban Watershed Protection Overlay District down from 40% to 21% of the site as well as a variance to Section 9.1.9.A.1. of the Unified Development Ordinance to reduce the minimum contiguous gross land area for qualifying forestation areas from 1/7 of the required forestation area (.16 acre) to 1/7 of the required forestation area (0.11 acre) on a 2.008 acre property zoned Commercial Mixed-Use-3-Parkway and Urban Watershed Protection Overlay District and located at 11370 Common Oaks Drive.



**11370 Common Oaks Drive**

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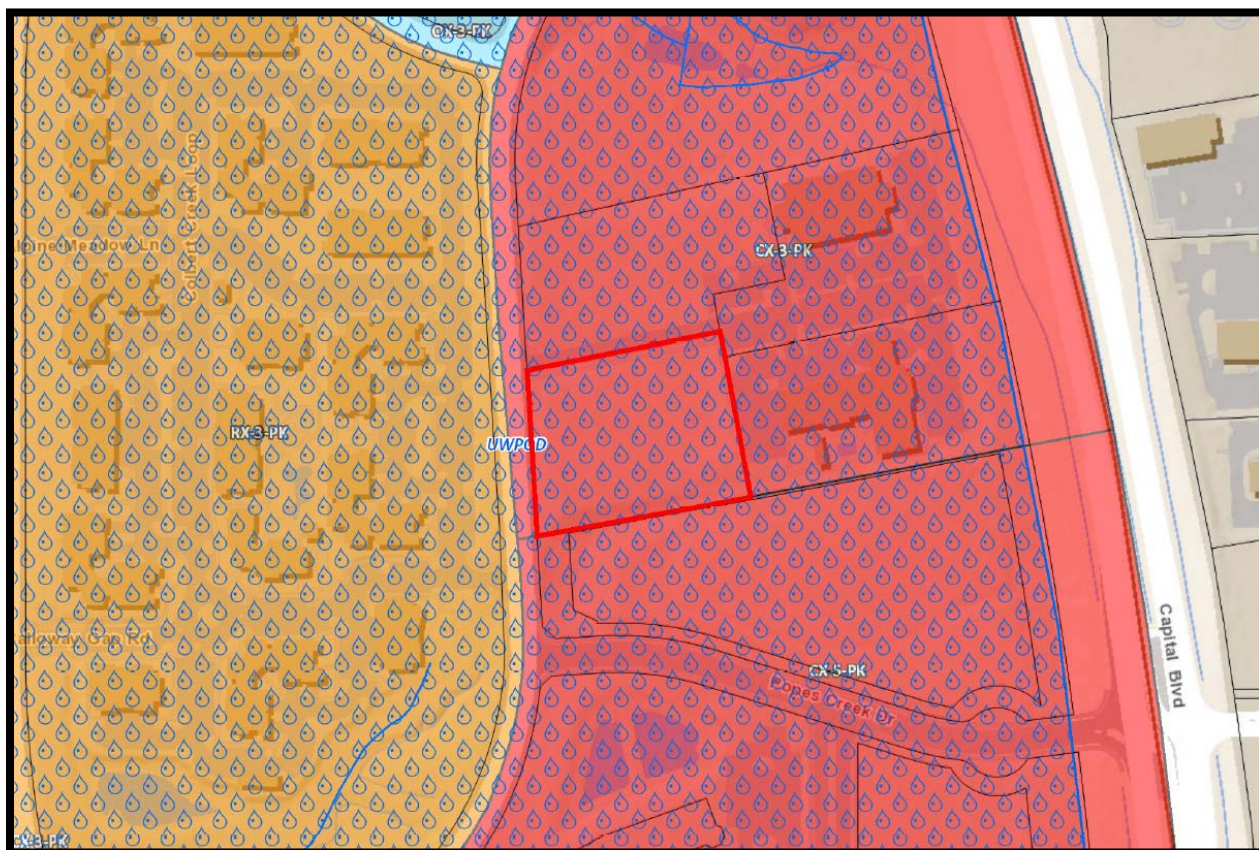
**To BOA:** 9-11-17

**Staff Coordinator:** Eric S. Hodge, AICP

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**ZONING**

**DISTRICTS:** Office Mixed-Use-4 Conditional Use and Urban Watershed Protection Overlay District



**11370 Common Oaks Drive**

**VARIANCE STANDARDS:** In accordance with UDO [§10.2.10 Variance](#), before a variance request is granted, the Board of Adjustment shall show all of the following:

**To Legalize the Existing Structure:**

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

2. **The hardship results from conditions that are peculiar to the property, such as location, size or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.**
3. **The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.**
4. **The requested variance is consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured and substantial justice is achieved.**

#### **Sec. 9.1.9 Watershed Protection Overlay Districts**

A. Except as otherwise provided below, every lot located within a -UWPOD, -FWPOD or -SWPOD must provide and maintain an area set aside for trees equal to at least 40% of the lot area. Within this area, trees must either be preserved or planted in accordance with the following:

1. Tree areas may be 1 contiguous area or scattered areas throughout the lot, but no required tree area may be less than 1/5 of the total gross land area required to be set aside for trees;
2. All areas required to be set aside for trees shall be maintained as wooded areas;
3. Wooded areas may consist of either areas where active tree preservation is observed or tree planting areas;
4. Each active tree preservation area must contain a minimum of 2 inches of tree caliper per every 100 square feet and within such areas, active tree preservation shall be followed;
5. Areas that are set aside for trees that do not meet the standards for active tree protection areas must be planted with shade trees; and
6. The minimum size and planting rate of new tree plantings used to fulfill this requirement shall be either 1 bare-root seedling at least 14 inches tall planted per 100 square feet (10 feet by 10 feet centers) or one 2-inch caliper tree planted per 200 square feet.

B. After wooded areas have been determined and prior to or concurrent to any subdividing of the property or issuance of building permit, the landowner shall record with the local County Register of Deeds a plat with metes and bounds descriptions of all wooded areas.

C. For lots located within areas designated "New Urban" by the Swift Creek Land Management Plan, the regulations of Sec. 9.1.9.A. above apply with the exception that only 25% of each lot must contain an area set aside for trees.

D. For lots located within a conservation development, areas set aside for trees may in lieu of being situated on the individual dwelling lots may instead be located within the required open space, provided that the overall acreage set aside for trees is not diminished.

E. The requirements of this section do not apply to lots devoted exclusively to stormwater control measures or to those lots located in those areas of the Comprehensive Plan designated for impervious surfaces in excess of 30%.

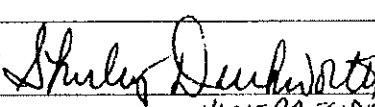
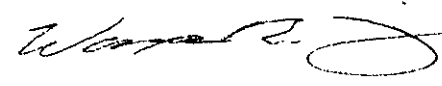
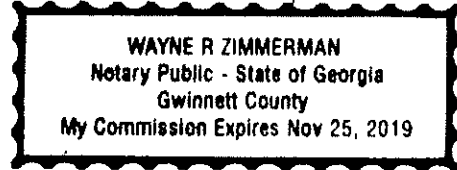
# Application for Variance



Department of City Planning | 1 Exchange Plaza, Suite 300 | Raleigh, NC 27601 | 919-996-2626

Submit application to: Development Services Customer Service Center, 1 Exchange Plaza, Suite 400, Raleigh, NC 27601

NATURE OF REQUEST	OFFICE USE ONLY
Nature of variance request (if more space is needed, submit addendum on separate sheet): Reduction of forestation requirements from 40% to 21%. See attached addendum on separate sheet.	Transaction Number  A-108-17
Provide all previous transaction numbers for Coordinated Team Reviews, Due Diligence Sessions, or Pre-Submittal Conferences. If this property was the subject of a previous variance request, provide the case number.  519514 - Sketch Plan Review	

GENERAL INFORMATION		
Property Address 11370 Common Oaks Drive	Date	
Property PIN 1830514494	Current Zoning CX-3-PK-UWPOD	
Nearest Intersection Common Oaks Dr. & Popes Creek Dr.	Property size (in acres) 2.01	
Property Owner Fifth Third Bank	Phone 678-906-4735	Fax 770-995-9601
Owner's Mailing Address 165 Nash Street, Lawrenceville, GA 30046	Email shirley.duckworth@53.com	
Project Contact Person Jason Henderson, PE	Phone 864.326.4204	Fax
Contact Person's Mailing Address 19 Washington Park, Suite 100 - Greenville, SC 29601	Email jason@bluewatercivil.com	
Property Owner Signature  VICE PRESIDENT	Email shirley.duckworth@53.com	
Notary  Sworn and subscribed before me this <u>10</u> day of <u>August</u> 20 <u>17</u>	Notary Signature and Seal  	

**Application For Variance (8-10-2017)**

11370 Common Oaks Dr - Raleigh, NC

Property PIN 1830514494

**Nature of Request**

See attached exhibit. We are requesting a reduction of forestation requirements from 40% to 21%. This property contains multiple existing easements (water line and access) and a portion of an existing access drive (paved) included inside property line limits that inhibits the ability to provide the 40% forestation required by ordinance for this proposed development. We are requesting the 40% requirement be reduced to 21%.

Also, per ordinance we are required to conserve 10% of existing tree cover/forest which we will be adhering to. It is our understanding that this 10% would also count toward the requested 21% forestation.



## **LIST OF ALL ADJACENT PROPERTY OWNERS**

1830514494  
FIFTH THIRD BANK  
201 N TRYON ST STE 1600  
CHARLOTTE NC 28202-2146

1830418461  
LEGACY AT WAKEFIELD/HF LLC LEGACY  
AT WAKEFIELD/HB ...  
3301 W END AVE STE 200  
NASHVILLE TN 37203-6897

1830515720  
CONCORD CORPORATE CENTER II LLC  
11410 COMMON OAKS DR  
RALEIGH NC 27614-7002

1830517066  
REX CDP PARK LAND CONDO OWNERS  
ASSN INC  
REX CDP VENTURES LLC  
940 NW CARY PKWY STE 101  
CARY NC 27513-2792

1830518211  
REX WAKEFIELD ENTERPRISES LLC  
4420 LAKE BOONE TRL  
RALEIGH NC 27607-7505

1830518570  
WAKEFIELD HOTELS LLC  
NINE POINTS  
11400 COMMON OAKS DR  
RALEIGH NC 27614-7002

1830518785  
CONCORD CORPORATE CENTER LLC  
CONCORD HOSPITALITY ENTERPRISES  
CO  
11410 COMMON OAKS DR  
RALEIGH NC 27614-7002

